
HOUSE BILL No. 1428

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8; IC 3-9.

Synopsis: Legislative campaign spending limits. Provides that a candidate for election to the Indiana house of representatives may not spend more than a total of \$15,000 before a primary election and \$30,000 during the period between primary election day and general election day. Provides that the expenditure limits for a candidate for election to the Indiana senate are double the corresponding limits for candidates for election to the house of representatives. Attributes expenditures made by certain other persons to support a legislative candidate toward the candidate's expenditure limit. Imposes certain reporting requirements regarding outside expenditures. Authorizes the Indiana election commission to impose civil penalties for violations. Provides exceptions for write-in candidates and candidates nominated by petition.

Effective: July 1, 2003.

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January 14, 2003, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1428

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-8-2-7, AS AMENDED BY P.L.199-2001,
2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 7. (a) The declaration of each candidate required
4 by this chapter must be signed before a person authorized to administer
5 oaths and contain the following information:

6 (1) The candidate's name, printed or typewritten as:

7 (A) the candidate wants the candidate's name to appear on the
8 ballot; and

9 (B) the candidate's name is permitted to appear on the ballot
10 under IC 3-5-7.

11 (2) A statement that the candidate is a registered voter and the
12 location of the candidate's precinct and township (or ward and
13 city or town), county, and state.

14 (3) The candidate's complete residence address, and if the
15 candidate's mailing address is different from the residence
16 address, the mailing address.

17 (4) A statement of the candidate's party affiliation. For purposes



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of this subdivision, a candidate is considered to be affiliated with a political party only if any of the following applies:

(A) The most recent primary election in which the candidate voted was a primary election held by the party with which the candidate claims affiliation.

(B) The candidate has never voted in a primary election and claims a party affiliation.

(C) The county chairman of:

(i) the political party with which the candidate claims affiliation; and

(ii) the county in which the candidate resides;

certifies that the candidate is a member of the political party.

(5) A statement that the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and that the candidate is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.

(6) A request that the candidate's name be placed on the official primary ballot of that party to be voted on, the office for which the candidate is declaring, and the date of the primary election.

(7) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; ~~and~~

(B) agrees to comply with the provisions of IC 3-9; ~~and~~

(C) if a candidate for a legislative office, has complied with the provisions of IC 3-9-3.5-5 for the period before primary election day.

The candidate must separately sign the statement required by this subdivision.

(8) A statement as to whether the candidate has been a candidate for state or local office in a previous primary or general election and whether the candidate has filed all reports required by IC 3-9-5-10 for all previous candidacies.

(9) If the candidate is subject to IC 3-9-1-5, a statement that the candidate has filed a campaign finance statement of organization for the candidate's principal committee or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date to file the declaration of candidacy under section 11 of this chapter.

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(10) The candidate's signature.

(b) The commission shall provide that the form of a declaration of candidacy includes the following information near the separate signature required by subsection (a)(7):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

(c) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.

SECTION 2. IC 3-8-7-8, AS AMENDED BY P.L.260-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Either the chairman and secretary of a state convention or the state chairman and state secretary of the political party holding the state convention shall certify each candidate nominated at the convention to the secretary of state not later than noon July 15 before the general election.

(b) The certificate must state the following:

(1) Whether each candidate nominated by the convention has complied with IC 3-9-1-5 by filing a campaign finance statement of organization.

(2) That the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; ~~and~~

(B) agrees to comply with the provisions of IC 3-9; **and**

(C) if a candidate for a legislative office, has complied with the provisions of IC 3-9-3.5-5 for the period before primary election day.

The candidate must separately sign the statement required by this subdivision.

(c) The commission shall prescribe the form of the certificate of nomination for the offices. The commission shall provide that the form of the certificate of nomination include the following information near

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the separate signature required by subsection (b)(2):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

(d) A certificate of nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the certificate of nomination. If there is a difference between the name on the candidate's certificate of nomination and the name on the candidate's voter registration record, the officer with whom the certificate of nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's certificate of nomination.

SECTION 3. IC 3-9-1-12, AS AMENDED BY P.L.126-2002, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A committee may disband at any time in the manner prescribed by this section.

(b) The commission or a county election board may administratively disband a committee in the manner prescribed by this section.

(c) The commission has exclusive jurisdiction to disband any of the following:

(1) A candidate's committee for state office.

(2) A candidate's committee for legislative office.

(3) A legislative caucus committee.

(4) A political action committee that has filed a statement or report with the election division.

(5) A regular party committee that has filed a statement or report with the election division.

(d) A county election board has exclusive jurisdiction to disband any of the following:

(1) A candidate's committee for a local office.

(2) A candidate's committee for a school board office.

(3) A political action committee that has filed a statement or report with the election board, unless the political action committee has also filed a report with the election division.

(4) A regular party committee that has filed a statement or report with the election board, unless the regular party committee has also filed a report with the election division.

(e) The commission or a county election board may administratively disband a committee in the following manner:

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(1) Not later than the last Friday of January of each year, the election division or county election board shall review the list of committees that have filed statements of organization with the division or board under this article.

(2) If the election division or county election board determines both of the following, the election division or county election board may begin a proceeding before the commission or board to administratively disband the committee:

(A) The committee has not filed any report of expenditures during the previous three (3) calendar years.

(B) The committee last reported cash on hand in an amount that does not exceed one thousand dollars (\$1,000), if the committee filed a report under this article.

(3) The election division or county election board shall provide notice of the proceeding by certified mail to the last known address of the chairman and treasurer of the committee.

(4) The commission or board may issue an order administratively dissolving the committee and waiving any outstanding civil penalty previously imposed by the commission or board, if the commission or board makes the following findings:

(A) There is no evidence that the committee continues to receive contributions, make expenditures, or otherwise function as a committee.

(B) The prudent use of public resources makes further efforts to collect any outstanding civil penalty imposed against the committee wasteful or unjust.

(C) According to the best evidence available to the commission or board, the dissolution of the committee will not impair any contract or impede the collection of a debt or judgment by any person.

(5) The election division shall arrange for the publication in the Indiana Register of an order administratively disbanding a committee. A county election board shall publish a notice under IC 5-3-1 stating that the board has disbanded a committee under this subsection. The notice must state the date of the order and the name of the committee, but the board is not required to publish the text of the order.

(6) An order issued under this subsection takes effect immediately upon its adoption, unless otherwise specified in the order.

(f) If the chairman or treasurer of a committee wishes to disband the committee, the committee must do either of the following:

(1) Give written notification of the dissolution and transfer a

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surplus of contributions less expenditures to any one (1) or a combination of the following:

- (A) One (1) or more regular party committees.
- (B) One (1) or more candidate's committees.
- (C) The election division.
- (D) An organization exempt from federal income taxation under Section 501 of the Internal Revenue Code.
- (E) Contributors to the committee, on a pro rata basis.

(2) Use the surplus in any other manner permitted under IC 3-9-3-4.

Before a committee may transfer or use any surplus under subdivision (1) or (2), the committee must pay any civil penalties imposed under IC 3-9-4-20.

(g) Except as provided in subsection (e) concerning the waiver of civil penalties, a dissolution or transfer of funds does not relieve the committee or the committee's members from civil or criminal liability.

SECTION 4. IC 3-9-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 3.5. Campaign Expenditures by Candidates for Legislative Offices

Sec. 1. This article, to the extent not inconsistent with this chapter, applies to expenditures made for a candidate for a legislative office.

Sec. 2. As used in this chapter, "candidate" refers only to a candidate for election to a legislative office. The term does not include the following:

- (1) A write-in candidate for a legislative office.
- (2) A candidate for a legislative office nominated by a petition of nomination under IC 3-8-6.

Sec. 3. As used in this chapter, "expenditure period" means the following:

- (1) With respect to election to the house of representatives of the general assembly, the two (2) year period beginning the day after a general election day and ending the next general election day.
- (2) With respect to election to a particular seat in the senate of the general assembly, the four (4) year period beginning the day after a general election day for that senate seat and ending the next general election day for that senate seat.

Sec. 4. (a) As used in this chapter, "outside expenditure" means an expenditure made:



(1) by someone other than the candidate or the candidate's committee; and

(2) in support of the candidate.

(b) The term does not include an expenditure made by the political party:

(1) with which the candidate is affiliated; and

(2) in support of more than one (1) candidate.

Sec. 5. (a) A candidate for election to the house of representatives of the general assembly and the candidate's committee, together, may not spend more than a total of fifteen thousand dollars (\$15,000) during the part of the expenditure period before primary election day.

(b) A candidate for election to the senate of the general assembly and the candidate's committee, together, may not spend more than a total of thirty thousand dollars (\$30,000) during the part of the expenditure period before primary election day.

Sec. 6. (a) A candidate for election to the house of representatives of the general assembly and the candidate's committee, together, may not spend more than a total of thirty thousand dollars (\$30,000) during the part of the expenditure period beginning on primary election day and ending on general election day.

(b) A candidate for election to the senate of the general assembly and the candidate's committee, together, may not spend more than a total of sixty thousand dollars (\$60,000) during the part of the expenditure period beginning on primary election day and ending on general election day.

Sec. 7. (a) An outside expenditure is counted as an expenditure made by the candidate's committee and must be included in determining when the candidate has reached the limits established by this chapter.

(b) The following are not considered expenditures for the purpose of this chapter:

(1) Civil penalties:

(A) imposed under IC 3-9-4-20; and

(B) paid by a committee.

(2) Transfer of a committee's surplus upon dissolution of the committee under IC 3-9-1-12.

Sec. 8. (a) A person that makes total outside expenditures for a candidate of more than one hundred dollars (\$100) during an expenditure period must promptly provide the candidate's committee of the candidate for whom the expenditure was made

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1 with a detailed written accounting of the expenditure.

2 (b) A person required to make a report under subsection (a)
3 must make the accounting to the candidate's committee not more
4 than ten (10) days after any expenditure that is required to be
5 reported under subsection (a) is made.

6 Sec. 9. In addition to the information disclosed under
7 IC 3-9-5-14 for an annual report filed under IC 3-9-5-10, the
8 treasurer of a candidate's committee shall disclose the following in
9 the treasurer's annual report:

10 (1) The name of each person who has provided the candidate's
11 committee with an accounting under section 8 of this chapter
12 since the most recent report filed by the treasurer under
13 IC 3-9-5-10.

14 (2) The amount and description of each expenditure item
15 made by each person described in subdivision (1).

16 Sec. 10. After the general election, a candidate's committee may,
17 subject to this chapter, keep the balance of the money and spend
18 the money for purposes permitted by this article.

19 SECTION 5. IC 3-9-4-16 IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) In addition to any other
21 penalty imposed, a person who does any of the following is subject to
22 a civil penalty under this section:

23 (1) Fails to file with the election division a report in the manner
24 required under IC 3-9-5.

25 (2) Fails to file a statement of organization required under
26 IC 3-9-1.

27 (3) Is a committee or a member of a committee who disburses or
28 expends money or other property for any political purpose before
29 the money or other property has passed through the hands of the
30 treasurer of the committee.

31 (4) Makes a contribution other than to a committee subject to this
32 article or to a person authorized by law or a committee to receive
33 contributions on the committee's behalf.

34 (5) Is a corporation or labor organization that exceeds any of the
35 limitations on contributions prescribed by IC 3-9-2-4.

36 (6) Makes a contribution in the name of another person.

37 (7) Accepts a contribution made by one (1) person in the name of
38 another person.

39 (8) Is not the treasurer of a committee subject to this article, and
40 pays any expenses of an election or a caucus except as authorized
41 by this article.

42 (9) Commingles the funds of a committee with the personal funds

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of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Fails to make an accounting of expenditures required by IC 3-9-3.5-8.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a

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1 candidate or the candidate's committee has violated IC 3-9-2-12, the
 2 commission shall assess a civil penalty equal to the greater of the
 3 following, plus any investigative costs incurred and documented by the
 4 election division:

5 (1) Two (2) times the amount of any contributions received.

6 (2) One thousand dollars (\$1,000).

7 **(g) This subsection applies to a person who is subject to a civil**
 8 **penalty under subsection (a)(12). If the commission determines that**
 9 **a person is subject to a civil penalty under subsection (a)(12), the**
 10 **commission may assess a civil penalty of not more than two (2)**
 11 **times the amount of the expenditures for which the person failed**
 12 **to make an accounting as required by IC 3-9-3.5-8. If the**
 13 **commission is required to impose on the candidate's committee a**
 14 **civil penalty under section 20 of this chapter, the commission shall**
 15 **impose a civil penalty on the candidate's committee of two (2)**
 16 **times the amount of the expenditures for which the person failed**
 17 **to make an accounting as required by IC 3-9-3.5-8.**

18 **(h) All civil penalties collected under this section shall be deposited**
 19 **with the treasurer of state in the campaign finance enforcement**
 20 **account.**

21 ~~(h)~~ **(i) Proceedings of the commission under this section are subject**
 22 **to IC 4-21.5.**

23 **SECTION 6. IC 3-9-4-20 IS ADDED TO THE INDIANA CODE**
 24 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 25 **1, 2003]: Sec. 20. (a) This section applies only to a candidate and a**
 26 **candidate's committee of a candidate for a legislative office.**

27 **(b) If the commission determines that the expenditure limits set**
 28 **by IC 3-9-3.5 have been exceeded, the commission shall impose a**
 29 **civil penalty on the candidate's committee equal to the sum of the**
 30 **following:**

31 **(1) Two (2) times the amount of the expenditures that exceed**
 32 **the limit set by IC 3-9-3.5-5 or IC 3-9-3.5-6, whichever is**
 33 **applicable.**

34 **(2) Any investigative costs incurred and documented by the**
 35 **commission.**

36 **(c) The commission shall deduct from a civil penalty imposed**
 37 **under subsection (b) the amount of any civil penalties the**
 38 **commission imposes under section 16(g) of this chapter on a person**
 39 **who fails to account for expenditures as required under**
 40 **IC 3-9-3.5-8.**

41 **(d) Civil penalties collected under this section shall be deposited**
 42 **with the treasurer of state in the campaign finance enforcement**

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1 **account.**

2 **(e) Proceedings of the commission under this section are subject**
3 **to IC 4-21.5.**

4 **(f) Notwithstanding IC 3-9-1-12, upon dissolution of a**
5 **committee, the candidate and the members of the candidate's**
6 **committee are not liable for any civil penalties imposed on the**
7 **candidate's committee under this section. However, if the**
8 **candidate forms another committee for election to a state,**
9 **legislative, or local office, that committee is liable for any civil**
10 **penalties imposed under this section.**

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